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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2010-168

11 **ERINN TRACIE TERVALON, aka**
12 **ERINN TRACIE BROWN**
13 **1591 Wallace Street**
Simi Valley, California 93065

A C C U S A T I O N

14 **Registered Nurse License No. 530267**

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 2. On or about February 27, 1997, the Board issued Registered Nurse License Number
24 530267 to Erinn Tracie Tervalon, also known as Erinn Tracie Brown ("Respondent"). The
25 registered nurse license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on December 31, 2010, unless renewed.

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STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764, provides in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

. . .

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

6. Code section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

. . .

1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
2 unintelligible entries in any hospital, patient, or other record pertaining to the
3 substances described in subdivision (a) of this section.”

4 7. Code section 2770.11 states:

5 “(a) Each registered nurse who requests participation in a diversion
6 program shall agree to cooperate with the rehabilitation program designed by a
7 committee. Any failure to comply with the provisions of a rehabilitation program
8 may result in termination of the registered nurse’s participation in a program. The
9 name and license number of a registered nurse who is terminated for any reason,
10 other than successful completion, shall be reported to the board’s enforcement
11 program.

12 (b) If a committee determines that a registered nurse, who is denied
13 admission into a program or terminated from the program, presents a threat to the
14 public or his or her own health and safety, the committee shall report the name and
15 license number, along with a copy of all diversion records for that registered nurse, to
16 the board’s enforcement program. The board may use any of the records it receives
17 under this subdivision in any disciplinary proceeding.”

18 8. Code section 4060 states, in pertinent part:

19 “No person shall possess any controlled substances, except that furnished to a person upon
20 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
21 doctor . . .”

22 9. Health and Safety Code section 11173, subdivision (a) provides that no person shall
23 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
24 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
25 or subterfuge; or (2) by the concealment of a material fact.

26 COST RECOVERY

27 10. Code section 125.3 provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

29 BACKGROUND

30 11. On or about February 25, 2003, Respondent entered the Board’s Diversion Program;
31 however, Respondent was terminated from the program for failing to comply with the mandates
32 of the Diversion Evaluation Committee by continuing to work at facilities not approved by the
33

1 committee. Further, Respondent relapsed on the controlled substance Demerol on or about
2 May 2, 2005. The Diversion Evaluation Committee has deemed Respondent a public safety
3 threat.

4 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

5 12. "Demerol," a brand of meperidine hydrochloride, is a Schedule II controlled
6 substance as designated by Health and Safety Code section 11055, subdivision (c)(17) and a
7 dangerous drug under Code section 4022 in that under federal or state law it requires a
8 prescription.

9 13. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as
10 designated by Health and Safety Code section 11055, subdivision (b)(1)(K), and a dangerous drug
11 under Code section 4022 in that under federal or state law it requires a prescription.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Obtained and Possessed Controlled Substances in**
14 **Violation of Law; Self-Administration)**

15 14. Respondent is subject to discipline under Code sections 2750, 2761 subdivision (a),
16 and 2762, subdivision (a), on the grounds of unprofessional conduct in that Respondent obtained,
17 possessed, and / or self administered, in violation of law, controlled substances and / or dangerous
18 drugs. The circumstances are as follows:

19 **Community Hospital of Long Beach**

20 a. On or about May 2, 2005, while on duty as a registered nurse, by her own admission,
21 Respondent self-administered Demerol.

22 **Simi Valley Hospital**

23 b. On or about September 14, 2004, while on duty as a registered nurse, Respondent
24 obtained or possessed the controlled substances Demerol and Dilaudid by taking the drugs from
25 hospital supplies in violation of Health and Safety Code section 11173, subdivision (a).

26 c. On or about September 14, 2004, while on duty as a registered nurse, Respondent
27 possessed the controlled substances Demerol and Dilaudid without lawful authority in violation
28 of Code section 4060.

1 d. On or about September 14, 2004, while on duty as a registered nurse, Respondent
2 self-administered the controlled substances Demerol and Dilaudid.

3 **Kaiser Permanente Hospital**

4 e. Between November 2, 2002, and December 2, 2002, while on duty as a registered
5 nurse, Respondent obtained the controlled substance Demerol by taking the drugs from hospital
6 supplies in violation of Health and Safety Code section 11173, subdivision (a), as more fully set
7 forth in paragraph 15, below.

8 f. Between November 27, 2002, and December 2, 2002, while on duty as a registered
9 nurse, Respondent possessed the controlled substance Demerol without lawful authority in
10 violation of Code section 4060.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Used Controlled Substances to an Extent that Such Use Impaired Her**
13 **Ability to Practice Nursing Safely)**

14 15. Respondent is subject to discipline under Code sections 2750, 2761, subdivision (a),
15 and section 2762, subdivision (b), in that on or about September 14, 2004, and May 2, 2005,
16 while on duty as a registered nurse, Respondent used the controlled substances Demerol and
17 Dilaudid to an extent that such use impaired her ability to conduct with safety to the public the
18 practice of nursing.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Falsify Patient and/or Hospital Records)**

21 16. Respondent is subject to discipline under Code sections 2750, 2761, subdivision (a),
22 and 2762, subdivision (e), in that between November 27, 2002, and December 2, 2002, while on
23 duty as a registered nurse at Kaiser Permanente Hospital, Woodland Hills, California, Respondent
24 falsified or made grossly incorrect, inconsistent, or unintelligible entries in the following hospital
25 and patient records:

26 **Patient #14218867**

27 a. On December 1, 2002, at 1938 hours, Respondent withdrew 100 mg of Demerol from
28 the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the

1 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
2 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
3 disposition of the drug.

4 b. On December 1, 2002, at 2116 hours, Respondent withdrew 50 mg of Demerol from
5 the Pyxis System for this patient; however, Respondent failed to chart the administration or
6 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
7 the disposition of the drug.

8 c. On December 1, 2002, at 2251 hours, Respondent withdrew 100 mg of Demerol from
9 the Pyxis System for this patient; however, Respondent failed to chart the administration or
10 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
11 the disposition of the drug.

12 d. On December 1, 2002, at 2254 hours, Respondent withdrew 300 mg of Demerol from
13 the Pyxis System for this patient; however, Respondent failed to chart the administration or
14 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
15 the disposition of the drug.

16 **Patient #1531605**

17 e. On November 27, 2002, at 0300 hours, Respondent withdrew 100 mg of Demerol
18 from the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
19 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
20 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
21 disposition of the drug.

22 f. On November 27, 2002, at 0608 hours, Respondent withdrew 100 mg of Demerol
23 from the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
24 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
25 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
26 disposition of the drug.

27 g. On November 27, 2002, at 0655 hours, Respondent withdrew 75 mg of Demerol from
28 the Pyxis System for this patient; however, Respondent failed to chart the administration or

1 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
2 the disposition of the drug.

3 h. On November 27, 2002, at 1929 hours, Respondent withdrew 100 mg of Demerol
4 from the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
5 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
6 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
7 disposition of the drug.

8 i. On November 27, 2002, at 2355 hours, Respondent withdrew 100 mg of Demerol
9 from the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
10 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
11 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
12 disposition of the drug.

13 j. On November 28, 2002, at 0448 hours, Respondent withdrew 100 mg of Demerol
14 from the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
15 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
16 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
17 disposition of the drug.

18 k. On December 1, 2002, at 0030 hours, Respondent withdrew 100 mg of Demerol from
19 the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
20 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
21 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
22 disposition of the drug.

23 l. On December 1, 2002, at 0254 hours, Respondent withdrew 100 mg of Demerol from
24 the Pyxis System for this patient; however, Respondent failed to chart the administration or
25 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
26 the disposition of the drug.

27 m. On December 1, 2002, at 0500 hours, Respondent withdrew 100 mg of Demerol from
28 the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the

1 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
2 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
3 disposition of the drug.

4 n. On December 1, 2002, at 0504 hours, Respondent withdrew 100 mg of Demerol from
5 the Pyxis System for this patient; however, Respondent failed to chart the administration or
6 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
7 the disposition of the drug.

8 o. On December 1, 2002, at 0517 hours, Respondent withdrew 100 mg of Demerol from
9 the Pyxis System for this patient; however, Respondent failed to chart the administration or
10 wastage of any portion of the Demerol in any patient or hospital record or otherwise account for
11 the disposition of the drug.

12 p. On December 2, 2002, at 0319 hours, Respondent withdrew 100 mg of Demerol from
13 the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
14 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
15 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
16 disposition of the drug.

17 q. On December 2, 2002, at 0650 hours, Respondent withdrew 100 mg of Demerol from
18 the Pyxis System for this patient and charted the administration of 75 mg of Demerol in the
19 patient's Medication Administration Record; however, Respondent failed to chart the wastage of
20 the remaining 25 mg of Demerol in any patient or hospital record or otherwise account for the
21 disposition of the drug.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 I. Revoking or suspending Registered Nurse License Number 530267, issued to Erinn
26 Tracie Tervalon, also known as Erinn Tracie Brown;

2. Ordering Erinn Tracie Tervalon, also known as Erinn Tracie Brown to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/24/09

Louise R. Bailey
Louise R. Bailey, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2009602363
Tervalon-Acc.DAG Final